THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20773 OF 2005

DATED:22.9.2005

Between:

Flora Apartments Welfare Society

…Petitioner

And

Municipal Corporation of Hyderabad

Rep. by its Commissioner, BRKR Bhavan, Hyderabad and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20773 OF 2005

ORDER:

The petitioner society constructed house No.8-2-348/1, at Road No.3, Banjara Hills. The first respondent Corporation by communication issued in August 2005 informed the petitioner that in the road widening programme from Nagarjuna Junction to K.B.R. Junction, to 100 feet, the property of the petitioner to the extent of 256.75 Sq.yards may be affected and the petitioner was requested to give its consent and handover advance possession. According to the petitioner, it is not willing to give consent and in spite of the same, the respondents are threatening to demolish the portion of affected by the road widening. Therefore, present Writ Petition is filed.

Municipal Corporation of Hyderabad (MCH) sought consent of the owner for advance possession in larger public interest. It does not, however, mean that in the event of owner of the property not willing to give consent the respondent MCH would resort to high-handed action. In such case, the MCH has to necessarily resort to provisions of Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for short, the Act). In **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** while dealing with similar matter, this Court made the following observations.

> A reading of the said letter does not in any way indicate that there is any truth in the submission made by the learned Counsel for the petitioners. What was sought to by issuing such letter is, a request was made to the landlords to give consent to handover advanced possession in the larger public interest. It was clearly informed that MCH will pay compensation to the effected structures as per the Rules and extent all benefits as per the Rules. If landlord desires to avail the benefits to be extended by the MCH on his own volition the landlord may give consent. If the landlord is not willing the letter nowhere compels one to part with the land for widening the road in which event as rightly contended by the learned Standing Counsel the MCH will have to resort to the provisions of the Land Acquisition Act.

In this case, the petitioner has not given its willingness/consent to give advance possession to MCH for the road widening project. Needless to mention that Corporation has to initiate action under the provisions of the Land Acquisition Act, 1894. Till then, the petitioner cannot be deprived of its right to enjoy the property.

The Writ Petition with the above observations is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

22.9.2005

bnr